



FAIR POLITICAL PRACTICES COMMISSION

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March 8, 2010

Mr. John Martinez

✓ Norcal Grassroots for John Martinez

REDACTED

Warning Letter re: FPPC Case No. 08/424, John Martinez, Norcal Grassroots for John Martinez, and Daniel Webster

Dear Mr. Martinez:

The Fair Political Practices Commission (the "FPPC") enforces the provisions of the Political Reform Act (the "Act"),¹ found in Government Code section 81000, et seq. This letter is in response to a complaint filed against you, which pertained to the Special Election Edition of the Pioneer Press newspaper in connection with your candidacy for California State Assembly, Second District, in the 2008 primary election.

The FPPC has completed its investigation of the facts in this case and found that in approximately May 2008, your controlled committee, Norcal Grassroots for John Martinez: (a) reprinted more than 49,000 copies of the Special Election Edition of the Pioneer Press newspaper, which was an eight page advertisement/endorsement regarding your candidacy for California State Assembly, Second District; (b) mailed the Special Election Edition to more than 49,000 recipients as a mass mailer; and (c) failed to include—on the mass mailing—all of the sender identification information required by Section 84305.

A "mass mailing" is over 200 substantially similar pieces of mail sent in a calendar month, not including form letters or other mail sent in response to an unsolicited request, letter or other inquiry. (Section 82041.5; Regulation 18435, subd. (a).) The "sender" of a mass mailing is the candidate or

¹ The Act is contained in Government Code sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in sections 18110 through 18997 of Title 2 of the California Code of Regulations. All regulatory references are to Title 2, Division 6 of the California Code of Regulations, unless otherwise indicated.

committee who pays for the largest portion of expenditures attributable to the designing, printing or posting of the mailing. (Regulation 18435, subd. (b).) The phrase "pay for" means to make, to promise to make, or to incur an obligation to make, payment. (Regulation 18435, subd. (c).)

Section 84305, subdivisions (a) and (b), requires candidates and committees to properly identify themselves when sending a mass mailing. Specifically, the statute provides that no single candidate or committee shall send a mass mailing unless the name, street address, and city of the candidate or committee are shown on the outside of each piece of mail in the mass mailing. Additionally, if the sender of a mass mailing is a controlled committee, the name of the person controlling the committee must be included. (Section 84305, subd. (c).)

Our investigation revealed that the outside of your mass mailing (on the last page) stated that the Pioneer Press granted permission to you and your committee to reprint the Special Election Edition, with the cost of reproduction and distribution to be paid for by you and your committee. However, this was not full compliance with Section 84305, especially considering the lack of your committee's address.

This letter serves as a written warning. The information in this matter will be retained and may be considered should an enforcement action become necessary based on newly discovered information or future conduct. Failure to comply with the provisions of the Act in the future will result in monetary penalties of up to \$5,000 for each violation.

A warning letter is an FPPC case resolution without administrative prosecution or fine. However, the warning letter resolution does not provide you with the opportunity for a probable cause hearing or hearing before an Administrative Law Judge or the Fair Political Practices Commission. If you wish to avail yourself of these proceedings by requesting that your case proceed with prosecution rather than a warning, please notify us within ten (10) days from the date of this letter. Upon this notification, the FPPC will rescind this warning letter and proceed with administrative prosecution of this case. If we do not receive such notification, this warning letter will be posted on the FPPC's website ten (10) days from the date of this letter.

Please feel free to contact me with any questions you may have regarding this letter.

Sincerely

REDACTED

Neal P. Bucknell

Senior Commission Counsel

cc: Mr. Pete Stiglich